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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/847,505 | 05/02/2001 | John C. Voudouris | 72270-9004-01 | 8515 |

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| EXAMINER |
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LEWIS, RALPH A

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| ART UNIT | PAPER NUMBER |
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3732

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,505

Applicant(s)

VOUDOURIS, JOHN C.

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-57 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-45, 47-57 and 59 is/are rejected.
- 7) ☒ Claim(s) 46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Request to Re-Open Prosecution

Applicant's request to re-open prosecution and reply to the examiner's answer under 37 CFR 1.111 is granted.

Rejections based on Prior Art

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-45, 47-57 and 59 are rejected under 35 U.S.C. 102(b) as being unpatentable over Hanson (US 4,698,017) in view of Rosenberg (US 4,634,662).

Hanson discloses an orthodontic bracket having a lingual surface 14 for attachment to a tooth, an archwire slot 28, a space defined between shoulders 20 and 22, a notch 18 formed in the labial surface and side wall of the archwire slot 28 which extends mesio-distally "substantially" the same length of the archwire slot 28, and a locking shutter 24 having a stem 26 positioned in the space between shoulders 20 and 22 which is movable between an open and closed position for access to the archwire slot. The Hanson orthodontic bracket meets all the limitations of the present independent claims 41, 48 and 54 with the exception of those relating to the presence of tie wings, rather than the disclosed shoulders 20 and 22. Rosenberg, however, for a

similar orthodontic bracket teaches that shoulders 1 and 1' (Figure 1) may be formed with tie wings 2 (Figure 5) in order "to permit conventional ligating wires to be used in these cases where extreme malpositioning of the teeth initially require them" (column 2, line 66- column 4, line 2). To have provided the Hanson shoulders 20 and 22 with tie wings in order to permit the conventional use of ligating wires as taught by Rosenberg would have been obvious to one of ordinary skill in the art.

In regard to claims 44, 51, and 57, Rosenberg further teaches that the cover 5 may be extended mesio-distally at 8 and 8' in a T-shaped configuration so that the arch wire slot 7 is completely covered by the cover 4, 8 when in the closed position. To have extended the cover 24 of Hanson mesio-distally in a T-shaped configuration so that the arch wire slot 28 is completely covered by the cover 24 as taught by Rosenberg would have been obvious to of ordinary skill in the art. Moreover, to the extent that the Hanson notch 18 is deemed not to meet the "substantially the same length" limitation of claims 41 and 54, one would have found it obvious to have extended the notch 18 the entire mesial-distal direction of the bracket in order to accommodate a cover that covered the entire arch wire slot as is taught by Rosenberg.

Claims 41-45, 47, 54-57 and 59 are rejected under 35 U.S.C. 102(b) as being unpatentable over Hanson (US 4,698,017) in view of Rosenberg (US 4,634,662) as applied above and in further view of Hanson (US 4,492,573).

To the extent that the Hanson '017 notch 18 is deemed not to meet the vaguely claimed "substantially the same length" limitation of claims 41 and 54, Hanson '573 is cited as a further teaching that it is desirable to extend a similar notch 60 the entire mesial-distal dimension of the bracket in order to accommodate a cover 50 that covers the entire archwire slot. To have extended the notch 18 of Hanson '017 bracket the entire mesial-distal dimension of the bracket so as to accommodate an enlarged cover 24 that covers the entire arch wire slot 28 would have been obvious to one of ordinary skill in the art in view of the teachings of Hanson '573 and Rosenberg.

Allowable Subject Matter

Claim 46 is objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitation of the claims from which it depends.

Response to Applicant's Remarks

Applicant's remarks have been carefully considered and deemed moot in view of the new grounds of rejection. Applicant's frustration in the lengthy prosecution of the application is noted. The examiner reminds applicant that prosecution is a two-way street. The prosecution of broad claims, the taking of aggressive positions that broad generic terms such as "notch" mean much more than is reasonably suggested, and the waiting until after appeal in explaining what applicant means by the terminology mesial-distal and where that language comes from leads to delays.

Action Made Final


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R. Lewis
October 1, 2005


Ralph A. Lewis
Primary Examiner
Au3732